



Billing code 3290-F3

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee: Request for Comments from the Public Regarding Granting Certain Trade Benefits to Aruba, Curaçao, Sint Maarten, the Turks and Caicos Islands, the Bahamas, Dominica, Grenada, Montserrat, St. Kitts and Nevis and St. Vincent and the Grenadines

Agency: Office of the United States Trade Representative

Action: Notice and request for public comment

SUMMARY: The Trade Policy Staff Committee (TPSC) is seeking comments from the public on whether Curaçao, Sint Maarten, and the Turks and Caicos Islands should be designated as eligible to receive benefits under the Caribbean Basin Economic Recovery Act (CBERA) as amended by the Caribbean Basin Trade Partnership Act (CBTPA) (19 U.S.C. 2701 et seq.) and whether Aruba, the Bahamas, Dominica, Grenada, Montserrat, St. Kitts and Nevis and St. Vincent and the Grenadines (“St. Vincent”) should be designated as eligible to receive benefits under CBTPA. Although Congress identified the Turks and Caicos Islands as potentially eligible for benefits in 1983, the Turks and Caicos Islands did not request beneficiary status until July 2012. Similarly, although the Congress identified the Bahamas, Grenada, Montserrat, St. Kitts and Nevis and St. Vincent for benefits under CBERA in 1983 and CBTPA in 2000, these countries did not request benefits under CBTPA until 2012. Aruba was designated as a beneficiary country of CBERA benefits effective as of January 1, 1986 upon becoming independent of the

Netherlands Antilles in 1986, and requested CBTPA benefits in October 2012. As a result of the dissolution of the Netherlands Antilles in October of 2010, Curaçao and Sint Maarten became successor political entities of the Netherlands Antilles and eligible to receive benefits as such. Curaçao and Sint Maarten requested the receipt of CBERA and CBTPA benefits in, respectively, July and June of 2012.

DATES: Comments are due no later than midnight, November 9, 2012.

ADDRESSES: USTR strongly prefers electronic submissions made at <http://www.regulations.gov>, docket number USTR-2012-0028. See “Requirements for Submission,” below. If you are unable to make a submission at www.regulations.gov, please contact Don Eiss, Trade Policy Staff Committee, at (202) 395-3475 to make other arrangements.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning written comments, contact Don Eiss, Office of the United States Trade Representative, at (202) 395-3475. All other questions should be directed to Fran Huegel, Office of the Americas, Office of the United States Trade Representative, 600 17th Street, NW, Room 523, Washington, DC 20508. Her telephone number is (202) 395-6135.

SUPPLEMENTARY INFORMATION: Interested parties are invited to submit comments on whether Curaçao, Sint Maarten, and the Turks and Caicos Islands meet or fail to satisfy the eligibility criteria described in sections 212(b), 212(c), and 213(b)(5)(B) of the CBERA, as amended, and whether the Bahamas, Grenada, Montserrat, St. Kitts and Nevis and St. Vincent meet or fail to satisfy the eligibility criteria described in section 213(b)(5)(B) of the CBERA, as amended. Those criteria may be accessed at <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title19/html/USCODE-2011-title19-chap15.htm> and are summarized below.

Eligibility Criteria for Designation as a Beneficiary under CBERA and CBTPA

After a country, territory or successor political entity identified in the statute as a potential beneficiary country requests benefits under CBERA and CBTPA, the President must determine whether to designate it as a beneficiary under the two programs. The President shall consider only the specified countries, territories, or successor political entities. In determining whether to designate a country as a CBERA beneficiary country, the President must take into account the criteria contained in section 212(b) of the CBERA, which include whether the country, *inter alia*: (1) is a Communist country; (2) has nationalized, expropriated or otherwise seized ownership or control of property owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, or taken certain steps described in the statute that have such an effect, without proper compensation or arbitration of the dispute; (3) fails to act in good faith in enforcing arbitral awards in favor of United States citizens or a corporation, partnership or association which is 50 percent or more beneficially owned by United States citizens; (4) affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce; (5) owns an entity that engages in the broadcast of copyrighted material belonging to United States copyright owners without their express consent; (6) is a signatory to a treaty, convention, protocol, or other agreement regarding the extradition of United States citizens; and (7) has not or is not taking steps to afford internationally recognized worker rights (as defined in section 507(4) of the Trade Act of 1974 (19 U.S.C. 2467(4))) to workers in the country.

The President must also take into account the criteria contained in section 212 (c) of the CBERA, which include, *inter alia*: (1) the economic conditions in such country; (2) the extent to which such country has

assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country; (3) the degree to which such country follows the accepted rules of international trade provided for under the World Trade Organization (WTO) Agreement and the multilateral trade agreements; (4) the degree to which such country uses export subsidies or imposes export performance requirements or local content requirements which distort international trade; (5) the degree to which the trade policies of such country as they relate to other beneficiary countries are contributing to the revitalization of the region; (6) the degree to which such country is undertaking self-help measures to promote its own economic development; (7) whether or not such country has taken or is taking steps to afford to workers in that country internationally recognized worker rights; (8) the extent to which such country provides under its law adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property; (9) the extent to which such country prohibits its nationals from engaging in the broadcast of copyrighted material belonging to United States copyright owners without their express consent; (10) and the extent to which such country is prepared to cooperate with the United States in the administration of the provisions of the CBERA.

Eligibility Criteria for CBTPA Beneficiary Countries

In determining whether to designate a country as a CBTPA beneficiary country, the President must take into account the criteria contained in sections 212(b) and (c) of CBERA described above, and other appropriate criteria, including the following criteria contained in section 213(b)(5)(B) of the CBERA: (1) whether the beneficiary country has demonstrated a commitment to undertake its obligations under the WTO Agreement; (2) participates in negotiations toward the completion of the Free Trade Area of the Americas or another free trade agreement; (3) the extent to which the country provides protection of intellectual property rights consistent with or greater than the protection afforded under the

Agreement on Trade-Related Aspects of Intellectual Property Rights described in section 101(d)(15) of the Uruguay Round Agreements Act (19 USC 3511(d)(15)); (4) the extent to which the country provides internationally recognized worker rights; (5) whether the country has implemented its commitments to eliminate the worst forms of child labor; (6) the extent to which the country has met U.S. counter-narcotics certification criteria under the Foreign Assistance Act of 1961; (7) the extent to which the country has taken steps to become a party to and implement the Inter-American Convention Against Corruption; and (8) the extent to which the country applies transparent, nondiscriminatory and competitive procedures in government procurement and contributes to efforts in international fora to develop and implement rules on transparency in government procurement.

Additionally, before a country can receive benefits under the CBTPA, the President must also determine that the country has satisfied the requirements of section 213(b)(4)(A)(ii) of CBERA (19 U.S.C. 2703(b)(4)(A)(ii)) relating to the implementation of procedures and requirements similar to the relevant procedures and requirements under chapter 5 of the North American Free Trade Agreement.

Requirements for Submissions. Persons submitting comments must do so in English and must identify (on the first page of the submission) the “CBERA and/or CBTPA Eligibility for [insert names of countries upon which you are commenting].” Written comments must be received by November 9, 2012.

In order to ensure the most timely and expeditious receipt and consideration of comments, USTR has arranged to accept on-line submissions via www.regulations.gov. To submit comments via www.regulations.gov, enter docket number USTR-2012-0028 on the home page and click “go”. The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting “Notice” under “Document Type” on the left side of the search-results page, and click on the link entitled “Send a Comment or Submission.” (For further information on using the

www.regulations.gov website, please consult the resources provided on the website by clicking on “How to Use This Site” on the left side of the home page.)

The www.regulations.gov website provides the option of making submissions by filling in a “General Comments” field, or by attaching a document. We expect that most submissions will be provided in an attached document. If a document is attached, it is sufficient to type “See attached” in the “General Comments” field.

Submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf) are preferred. If an application other than those two is used, please identify in your submission the specific application used. For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters “BC” and must be submitted separately from the public version. Any page containing business confidential information must be clearly marked “BUSINESS CONFIDENTIAL” on the top of that page. If you file comments containing business confidential information you must also submit a public version of the comments under a separate submission. The file name of the public version should begin with the character “P”. The “BC” and “P” should be followed by the name of the person or entity submitting the comments. If you submit comments that contain no business confidential information, the file name should begin with the character “P”, followed by the name of the person or entity submitting the comments. Electronic submissions should not attach separate cover letters; rather, information that might appear in a cover letter should be included in the comments you submit. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments to a submission in the same file as the submission itself and not as separate files.

We strongly urge submitters to use electronic filing. If an on-line submission is impossible, alternative arrangements must be made with Mr. Eiss prior to delivery for the receipt of such

submissions. Mr. Eiss may be contacted at (202) 395-3475. General information concerning the Office of the United States Trade Representative may be obtained by accessing its Internet Web site (<http://www.ustr.gov>).

John Melle

Assistant United States Trade Representative for the Western Hemisphere

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